

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

STACY D. OWENS, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. CIV-22-664-D
	)	
FLOWERS FOODS, INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

Upon examination of the Notice of Removal [Doc. No. 1], the Court finds insufficient factual allegations to support the assertion of federal subject matter jurisdiction based on diversity of citizenship under 28 U.S.C. § 1332.<sup>1</sup> In the Notice, Defendant Flowers Baking Co. of Denton, LLC (“Flowers Baking”) alleges sufficient facts to show its citizenship and the citizenship of all defendants and to show that the amount in controversy exceeds \$75,000. However, there are multiple plaintiffs: Stacy D. Owens, individually and as the surviving spouse of Kevin L. Owens, deceased; and K & S Owens Distributing, Inc.

The sole allegation regarding Plaintiffs’ citizenship is that “Plaintiff is a resident and citizen of Cleveland County, Oklahoma.” *See* Notice of Removal at 2. The Court

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<sup>1</sup> “[F]ederal courts unquestionably ‘have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.’” *Havens v. Colo. Dep’t of Corr.*, 897 F.3d 1250, 1260 (10th Cir. 2018) (quoting *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006)).

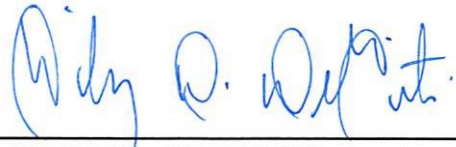
assumes this allegation refers to Mrs. Owens. However, for an action brought as a legal representative of Mr. Owens' estate, his citizenship controls. *See* 28 U.S.C. § 1332(c)(2). Also, no facts regarding the corporate plaintiff are stated.

Therefore, the Court finds that Flowers Baking has failed to carry its burden, as the party invoking federal jurisdiction, to establish the existence of complete diversity of citizenship between the parties.

**IT IS THEREFORE ORDERED** that Flowers Baking shall file an amended notice of removal to allege the existence of diversity jurisdiction within 14 days from the date of this Order.<sup>2</sup>

**IT IS FURTHER ORDERED** that the Clerk is directed to mail a copy of this Order to counsel of record for Plaintiff, who is not currently registered in the Court's ECF system.

**IT IS SO ORDERED** this 11<sup>th</sup> day of August, 2022.



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TIMOTHY D. DeGIUSTI  
Chief United States District Judge

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<sup>2</sup> Flowers Baking need not re-file the exhibits attached to the original Notice of Removal but may incorporate them by reference pursuant to Fed. R. Civ. P. 10(c).